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Statement by Attorney Dana A. Jonson

Before the Education Committee in Support of Raised Bill No. 6666

**An act requiring School Districts to utilized Board Certified Behavior Analysts
when an individual education plan includes applied behavior analytic services
as part of a student's special education plan.**

Mach 16, 2009

Honorable Co-Chairs and Members of the Committee:

I am grateful for the opportunity to testify in strong support of Raised Bill No. 6666, an act requiring School Districts to utilized Board Certified Behavior Analysts when and individual education plan includes applied behavior analytic services as part of a student's special education plan. I am an attorney in private practice in Connecticut and my practice focuses on the representation of children with disabilities in acquiring appropriate programming for them under the Individuals with Disabilities Education Act (IDEA).

While the number of children with autism in Connecticut has skyrocketed, the number of behavior analysts working with this segment of the population has also increased exponentially. However, school districts and parents continue to hire individuals that do not have adequate training or an appropriate professional credential. In fact, many parents and school districts are still unaware of what kind of education and experience someone identifying themselves as a behavior analyst should have, and are basing their hiring decision solely on the claims made by the provider.

Prior to becoming an attorney, I was a special education teacher and administrator. In my career as a teacher, I had the privilege to work in a residential school for children on the Autism Spectrum which utilized Applied Behavior Analysis. Despite the intensive and excellent training I received from that experience, and despite the fact that I also hold a Master's in Special Education, I do not hold the qualifications of a Board Certified Behavior Analyst and am not qualified to provide services as such to children requiring those services.

Unfortunately, both in my experiences as a special educator and an attorney representing children with disabilities, I have seen all too often providers who embellish upon their experiences and qualifications in order to provide these services to children with Autism. I believe we are all aware now that early and intensive intervention for children with Autism is crucial. And for children who require applied behavior analytic services, those services and how they are implemented, can dictate the level of independence that child will eventually achieve. If those services are not properly provided, there is no chance for a "do-over." Often, when the

opportunity is missed, it cannot be regained. It is outrageous that we would allow children with the most complex educational needs to receive the intensive services they require from staff who are not properly credentialed or qualified to provide those services. We would not allow that of occupational therapy provider, physical therapy provider, speech and language provider or even the special education teacher. Every other professional discipline that works with children with special needs must have a valid license or certification.

This is not a new practice. The IDEA, the Federal Law that governs special education does have a provision defining the related service providers and the Connecticut Statute, as reauthorized in August of 2005, defers to the IDEA for that definition. By enacting this bill, Connecticut will be codifying what is already required by federal law, but is routinely being ignored, and with all due respect to the Attorney General, whom I commend for his genuine and focused interest in rectifying this situation, waiting until 2011 for CT districts to finally comply with federal law is more than two years too late.

The cost of not requiring such credentials of staff providing behavior analytic services is twofold. First, there is the cost to the child. The child who does not receive these services by a properly credentialed Board Certified Behavior Analyst will likely miss the opportunity to reach a level of independence they otherwise would have, thus, making that individual dependent on society to care for them. Second, there is the cost to the school districts. Because of the provision in the Federal Law, when it is ultimately discovered that the services were not provided by the proper staff, the school district is vulnerable to compensatory education claims, meaning that they not only would have to start providing the proper services, but would have to make up the old services. In some cases, that could be years of improper services, which could end up being very costly to the school district.

It is also important to point out that this bill is not asking that every child with Autism have a BCBA provide services to them, only that if the child's IEP Team determines that the child requires behavioral services; those services must be provided by a properly credentialed Board Certified Behavior Analyst.

Connecticut is currently out of compliance, and children are suffering as a result. It can not be overstated that the children who require these specific services, have the some of the most complex educational needs and depend on these services now for their future potential. I have heard many Parents as well as educators say that their hopes and dreams for their children or students is that they become tax payers someday, meaningful contributors to society. By not affording children with Autism the right to have their behavioral services provided to them by properly credentialed providers, as we do for all of their other services, we take away their potential. These children are in the greatest possible need of the protection and vigilance of the adults charged with their education and care. This Bill will provide some of that protection.

Thank you very much for your time and consideration.

Respectfully Submitted by:
Attorney Dana A. Jonson